

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

RICHARD M. ZELMA,

X  
Docket No.:

Plaintiff,  
-against-

**NOTICE OF REMOVAL**

ALPHA GAS AND ELECTRIC, LLC, a/k/a, d/b/a, ALPHA ENERGY, a New York Limited Liability Company, POWER PLUS USA, LLC, a Florida Limited Liability Company, DAVID WANOUNOU individually and as owner, officer or managing member of Alpha Gas and Electric LLC a/k/a, d/b/a. Alpha Energy and as owner, officer or managing member of Power Plus USA, LLC, and Does' (1-5) and ABC CORPORATIONS' (1-5); each acting individually, in Concert or as a group,

Defendants.

X

Defendants ALPHA GAS AND ELECTRIC, LLC, POWER PLUS USA, LLC, and DAVID WANOUNOU (hereinafter collectively referred to as the "Defendants"), by and through their attorneys Law Offices of Gerald P. Gross, P.C., hereby removes this action to the United State District Court for the District of New Jersey pursuant to 28 U.S.C. §§ 1331 and 1441.

1. This action was commenced against the Defendants in the Superior Court of New Jersey, Bergen County, Docket No.: BER-L-5562-14, on June 10, 2014, by the filing of a Summons and Complaint. Copies of the Summons and Complaint are annexed hereto as Exhibit A.
2. Plaintiff served a summons and complaint on defendant Alpha Gas and Electric, LLC and David Wanounou on June 24, 2014, by personal service at 971 Route 45, Suite 202, Pomona, New York 10970.
3. Plaintiff served a summons and complaint on defendant Power Plus USA, LLC, on June 25, 2014.

4. The object of this action is to recover statutory damages for the Defendants allegedly violating the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227. Specifically, plaintiff pleads three separate counts:

- a. Prohibited use of an automated dialing device in violation of 47 U.S.C. § 227(b)(1)(B);
- b. Protection of subscriber privacy rights in violation of 47 U.S.C. § 227 (c);
- c. Award for statutory trebled damages for willful or knowing violations of the TCPA, 47 U.S.C. § 227 (b)(3)(C).

5. Accordingly, the underlying action may be removed to this Court by the Defendants pursuant to the provisions of 28 U.S.C. § 1331 as the action arises under a law of the United States. See Mims v. Arrow Fin. Servs., LLC, 132 S. Ct. 740 (U.S. 2012) (ruling that federal courts have subject matter jurisdiction for claims of violations of the TCPA under 28 U.S.C. § 1331).

6. To the extent that the plaintiff alleges violations or claims for relief pursuant to state law, if any, this Court has supplemental jurisdiction over such claims as they form part of the same case or controversy pursuant to 28 U.S.C. § 1337(a).

7. Pursuant to 28 U.S.C. § 1446(a), this Notice of Removal is filed in the United States District Court of the District of New Jersey, which is the district in which the civil court action is pending.

8. This Notice of Removal is timely filed with this Court, pursuant to 28 U.S.C. § 1446(b).

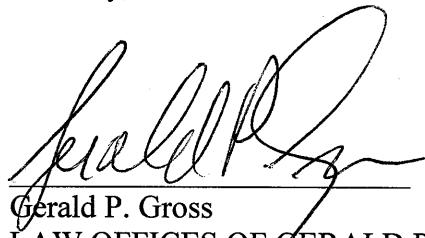
9. The Summons and Complaint annexed hereto as Exhibit A, constitutes “all process, pleadings, and order” served upon the Defendants, in the aforesaid action, within the meaning of 28 U.S.C. § 1446 (a).

10. The Defendants will promptly file a copy of the Notice of Removal with the Clerk of the Superior Court of New Jersey, Bergen County and with the plaintiff, as required by 28 U.S.C. § 1446(d).

WHEREFORE, the Defendants prays that the above-entitled action now pending in the Superior Court of New Jersey, Bergen County, be removed therefrom to this Court.

Dated: Cedarhurst, New York

July 9, 2014



Gerald P. Gross  
LAW OFFICES OF GERALD P. GROSS, P.C.  
Attorneys for Defendants  
366 Pearsall Avenue, Suite 5  
Cedarhurst, New York 11516  
(516) 371-2800  
[gpgross@gpgrosslaw.com](mailto:gpgross@gpgrosslaw.com)